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Third Session

SUMMARY RECORD OF THE FORTY-SEVENTH MEETING

Held at Lake Success, New York,
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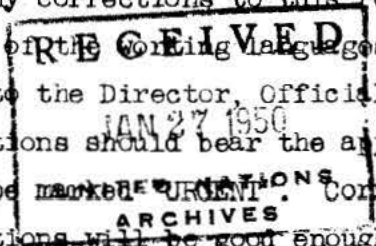
Definition and classification of minorities (E/CN.4/Sub.2/85,
E/CN.4/Sub.2/103)

<u>Chairman:</u>	Mr. MASANI	(India)
<u>Rapporteur:</u>	Mr. MENESES PALLARES	(Ecuador)
<u>Members:</u>	Mr. BLACK	(United States of America)
	Mr. CHANG	(China)
	Mr. EKSTRAND	(Sweden)
	Mr. FORMASHEV	(Union of Soviet Socialist Republics)
	Miss MONROE	(United Kingdom of Great Britain and Northern Ireland)
	Mr. NISOT	(Belgium)
	Mr. ROY	(Haiti)
	Mr. SHAFaq	(Iran)
	Mr. SPANLEN	(France)
	Mr. WINIEWICZ	(Poland)

Consultant from a non-governmental organization (Category A):

Miss SENDER	American Federation of Labor (AF of L)
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Consultants from non-governmental organizations (Category B):

Mr. BERNSTEIN	Co-ordinating Committee of Jewish Organizations
Mrs. PARSONS	International Council of Women

Secretariat:

Mr. LAWSON	Secretary of the Sub-Commission
Mr. LIN Mousheng	Human Rights Division

DEFINITION AND CLASSIFICATION OF MINORITIES (E/CN.4/Sub.2/85, E/CN.4/Sub.2/103)

1. The CHAIRMAN, after welcoming Mr. Black, invited the Sub-Commission to begin discussion of item 7 of the agenda, the definition and classification of minorities, which was the subject of a proposal by Miss Monroe (E/CN.4/Sub.2/103). The Sub-Commission also had before it two proposals by Mr. Shafaq which should be examined during discussion of item 8 of the agenda.

2. Mr. FORMASHEV (Union of Soviet Socialist Republics) recalled that, at the Sub-Commission's first meeting, on 9 January 1950, he had announced that his Government contested the right of representatives of the Kuomintang to sit on the Sub-Commission and supported the declaration by the Central Government of the Chinese People's Republic, which considered as illegal the participation of representatives of the Kuomintang in the work of the United Nations.

3. Consequently, he regarded the presence of an expert of the Kuomintang Government on the Sub-Commission as irregular, and stated that he would not participate in the latter's work so long as the representative of the Kuomintang was not excluded from it. To that end, he submitted the following formal proposal:

"The Sub-Commission decides to exclude the representative of the Kuomintang from its membership."

4. The CHAIRMAN pointed out that the members of the Sub-Commission had been elected by the Economic and Social Council, subject to the

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approval of their Governments. It could not be claimed that Mr. Chang, as an expert, represented the Chinese Government or the Kuomintang. He therefore hoped that Mr. Formashev would not press for his proposal to be put to the vote.

5. Mr. FORMASHEV (Union of Soviet Socialist Republics) maintained his proposal.

6. Mr. WINIEWICZ (Poland) strongly supported Mr. Formashev's proposal, which alone, in his opinion, could remedy an intolerable situation. China, a nation of 450 million inhabitants, was not in fact represented on the Sub-Commission, despite the importance for that country of questions relating to human rights: only an expert of the Central Government of the People's Republic, which was enthusiastically supported by the Chinese masses, would be authorized to speak in the name of the Chinese nation. It should be remembered that the United Nations was composed of Member Governments and not of individuals, and that although experts were chosen because of their individual merits, they could not take part in the work of the Organization without the consent of their Governments. In accordance with the rules of procedure of the Council, the Secretary-General must ask the Governments concerned whether or not they approved the Council's nominations. The Central Government of the Chinese People's Republic had made it known that it considered the presence in the United Nations of representatives of the Kuomintang as illegal. For those reasons, Mr. Winiewicz stated that he would not participate in the work of the Sub-Commission so long as Mr. Chang continued to sit on it.

7. Mr. CHANG (China) recalled that the question had arisen at the beginning of the Sub-Commission's session; he would merely ask Mr. Formashev whether he had submitted his proposal in his personal capacity or as a representative of his Government. Moreover, he pointed out that Mr. Winiewicz had previously maintained that no member of the Sub-Commission was there as a representative of his Government.

8. Mr. SHAFAG (Iran) doubted whether the Sub-Commission was empowered to exclude one of its members.

9. Miss MONROE (United Kingdom) emphasized, like the Chairman, that Mr. Chang was on the Sub-Commission in his capacity as an expert, and not as a representative of China. The immediate consequence of Mr. Formashev's proposal would be an acknowledgment that all the members of the Sub-Commission represented the Governments which had been in power in their respective countries at the time of their election by the Economic and Social Council.

10. Mr. EKSTRAND (Sweden) also pointed out that the Sub-Commission had been appointed by the Economic and Social Council and was not entitled to take a decision with regard to its own membership.

11. Mr. SPANIEN (France) maintained that the members of the Sub-Commission, once elected, enjoyed complete independence both with respect to the United Nations and with respect to their Governments. The Sub-Commission was not therefore competent to exclude one of its members who had been elected by the Economic and Social Council.

12. The CHAIRMAN considered that political changes which occurred in this or that country or in the political organs of the United Nations could have no bearing upon the composition of the Sub-Commission, the members of which were experts and had been re-elected by the Economic and Social Council for a term of three years. For that reason, although the Government of his country had recognized the Communist Government in China, he felt that that fact had no bearing on the question of the membership of that particular Sub-Commission.

13. Mr. SHAFAG (Iran) held the view that the Commission was not qualified to vote on a proposal which was outside the scope of its competence.

14. Mr. SPANIEN (France) endorsed Mr. Shafaq's views, and emphasized that the Sub-Commission was not qualified to make any decision with regard to its own membership. Mr. Formashev's proposal would have been in order only if the Sub-Commission had had to set itself up by co-option. Since that was not the case, any proposal to admit or exclude a member of the Sub-Commission was out of order.

15. He therefore proposed that a vote should first be taken on the following preliminary motion:

"The Sub-Commission decides to regard Mr. Formashev's proposal for the expulsion of one of its members as out of order".

16. The CHAIRMAN put Mr. Spanien's preliminary motion to the vote.
The motion was adopted by 9 votes to 2.

17. The CHAIRMAN observed that he quite appreciated that Mr. Formashev's resolution might not be in order, but that he had not wanted to take a strictly legalistic view of the matter, as he did not wish Mr. Formashev to feel that the Chairman had throttled the discussion or prevented the Sub-Commission from expressing itself on his resolution. He was therefore reluctant to rule it out of order.

18. In view of the above decision however, Mr. Formashev's resolution must be ruled out of order.

19. Mr. FORMASHEV (Union of Soviet Socialist Republics) stated that the Sub-Commission, by adopting Mr. Spanien's proposal, had automatically taken a decision on his own proposal. In those circumstances, he would no longer participate in the work of the Sub-Commission so long as the expert of the Kuomintang Government continued to sit.

20. Furthermore, the USSR Government would regard as illegal any decision taken by the Sub-Commission with the participation of the representative of the Kuomintang.

21. Mr. WINIEWICZ (Poland) also stated that he would take no part in the work of the Sub-Commission so long as the representative of the Kuomintang continued to sit there, and reserved his Government's position with regard to any decision that the Sub-Commission might take.

/22. The CHAIRMAN

22. The CHAIRMAN regretted that Mr. Formashev and Mr. Winiewicz felt that they could no longer participate in the work of the Sub-Commission, owing to a misinterpretation of the nature of its membership, and appealed to them to reconsider their decision.

Mr. Formashev and Mr. Winiewicz withdrew.

23. The CHAIRMAN requested the Sub-Commission to begin the examination of Miss Monroe's proposal (E/CN.4/Sub.2/103).

24. Mr. SPANIEN (France) asked whether Miss Monroe would be willing to withdraw the working paper which they had prepared together during the third session of the Sub-Commission (E/CN.4/Sub.2/69), in view of the fact that the new proposal which she had submitted made that paper unnecessary.

25. Furthermore, he recalled that, at the invitation of the Sub-Commission, the Secretary-General had prepared two interesting documents on the question under discussion, the first embodying a historical and scientific review of the problem of minorities (E/CN.4/Sub.2/85), the other incorporating a number of useful specific suggestions (E/CN.4/Sub.2/89). He thought that the Sub-Commission ought to study those documents, either before or after the discussion on Miss Monroe's proposal, particularly as it had been she herself who had requested the Secretariat to prepare them.

26. The CHAIRMAN suggested that document E/CN.4/Sub.2/83 should be examined after Miss Monroe's proposal and that document E/CN.4/Sub.2/89 should be examined at the same time as Mr. Shafaq's proposals relating to the discussion of item 8 of the agenda. He was sure, moreover, that when drafting her proposal Miss Monroe had not overlooked document E/CN.4/Sub.2/85.

27. Miss MONROE (United Kingdom), replying to Mr. Spanien, said that she was quite prepared to agree that the document which they had submitted jointly should be withdrawn. It had been only a working paper, and had become obsolete to a certain extent as a result of the distribution of other documents.

28. With regard to her draft resolution on definition and classification of minorities (E/CN.4/Sub.2/103), she explained that that was a question to which she attached great importance. She had previously prepared a draft along the same lines, but she had been compelled to alter it after studying the document prepared by the Secretariat, which embodied many features of particular interest.

29. She wished to explain her draft resolution to the Sub-Commission paragraph by paragraph.

30. The first paragraph was merely an introduction recapitulating the minorities with which the Sub-Commission must deal under its terms of reference.

31. The second paragraph listed the population groups which had in fact no need of special protection by the Sub-Commission. In that connexion, she explained that there was a danger of the word "minority" being used improperly and that a purely numerical meaning was very often attributed to it, for example by regarding as a minority the British subjects living in Kenya. Obviously, that was not the category of persons which the Sub-Commission should seek to protect. Furthermore, certain population groups were frequently described by the term "minority" -- the coloured group in the population of the United States, in particular -- whereas the measures which the Sub-Commission was seeking to take could not apply to such groups, in view of the fact that they were seeking complete identity of treatment with the rest of the population amid which they lived. The problems created by such groups fell within the field of those Articles of the Charter, the Universal Declaration of Human Rights and the draft International Covenant on Human Rights that were directed towards the prevention of discrimination.

32. The third paragraph was intended to define the minorities which should enjoy the advantages of such protection as the United Nations might wish to afford. Those groups would comprise non-dominant groups in a population which considered that they would gain no advantage from rigid equality of treatment and, although seeking complete identity of treatment with the rest of the population, desired special treatment with regard to particular aspects of their activities as communities.

33. The fourth paragraph recalled the difficulties raised by the problem, which had already been encountered by the Sub-Commission when it had examined

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the question on a previous occasion as well as by the Commission on Human Rights, the Economic and Social Council and the General Assembly itself.

34. Sub-paragraph (a) referred to the fact that some members of a minority might not wish to be treated differently from the rest of the population, while others might want to retain their distinctive characteristics. That was the case with the Jewish minority in the western hemisphere. The same phenomenon occurred in other parts of the world where environment brought about a rapid evolution in certain communities. It had been observed that in such cases the older members of the group tried to counteract such a trend and to retain their former way of life, while the younger generation was in favour of fusion and assimilation. The question of individual membership in a minority related to that aspect of the problem. In that connexion, Miss Monroe referred to paragraph 54 of the memorandum submitted by the Secretary-General (E/CN.4/Sub.2/85) which mentioned the German-Polish Convention of Geneva of 15 May 1922, of which article 74 read: "The question whether a person does or does not belong to a racial, linguistic or religious minority may not be verified or disputed by the authorities". The meaning of that article had been interpreted by the Permanent Court of International Justice, in its judgment of 26 April 1928, in the following manner: "the Court holds that the prohibition as regards any verification or dispute does not cease to apply in cases where it appears that the declaration is not in accord with the facts...if a declaration has been made, it must always be respected..." It would be inadvisable, therefore, to impose unwanted distinctions upon members of a group who did not wish to be treated differently from the rest of the population.

35. The aim of sub-paragraph (b) of the fourth paragraph was to avoid the adoption of measures which might perpetuate the status of some minority groups and impede the free development and adaptation of the individuals of which they were comprised. That would be the case with emigrants. Similar problems also arose in the under-developed areas of Asia and Africa. For instance, she had learned that some of the formerly isolated groups in Africa, having their own language, had progressively joined larger groups whose language had the same origin; that had been made possible by modern means of communication and dissemination.

36. Miss Monroe was convinced that similar phenomena were occurring in the Asian regions of the Union of Soviet Socialist Republics.

37. Sub-paragraph (c) was particularly important for it had been drafted in the light of the experience with the Sudeten Germans. Some members of that minority had adopted an attitude of political hostility to the State of which they were nationals and had then proceeded to win over all the members of the minority to their cause. That method had also been used by the Germans in Poland and in the entire Balkan area.

38. Sub-paragraph (d) stressed an obvious truth; it referred to such practices as cannibalism.

39. The opinion expressed in sub-paragraph (e) had often been considered as an escape clause. It had to be recognized, however, that Governments should be given some protection against possible claims by very small minorities; care should be taken not to impose an excessive and unjust financial burden upon the community.

40. The fifth paragraph merely emphasized the need to recognize an undeniable proposition.

41. The sixth paragraph, which constituted the operative part of the draft resolution, proposed a definition of the term minority.

42. She was prepared to examine any suggestions in connexion with her draft resolution and would give most thorough consideration to all observations made by members of the Sub-Commission. She believed that her text represented an important phase of their work because the Sub-Commission would have to submit an accurate survey of the question to the bodies which had brought it into existence.

43. Mr. SHAFIQ (Iran) thanked Miss Monroe for the interesting statement she had made. In his opinion, the notion of protection could be understood in two different ways: protection against discrimination proper, and protection of certain special rights to which minorities were entitled as communities. That was a particularly delicate aspect of the question. Who would be called upon to defend those special rights? Would it be necessary in such a case to recognize a minority as a legal entity constituting, in fact, a state within the state? Would there be an official body to defend that minority within the state or before international organs? Or would every individual member of that
/community be

community be entitled to uphold his rights through petitions or by any other means.

44. He feared that such a situation would lead to abuses, encourage political provocation and collusion with foreign States and result in violations of Article 2 of the Charter. Clearly, the notion of protection was vague and that important problem should be thoroughly examined.

45. The CHAIRMAN observed that the remarks made by Mr. Shafaq went beyond the scope of the discussion relating to item 7 of the agenda, which should be restricted to the question of the definition and classification of minorities.

46. Miss MONROE (United Kingdom) concurred in the Chairman's view, but pointed out that the notion of protection should not be considered alone because it might then assume a different meaning. It must not be forgotten that the point at issue was the protection of minorities only. The expression must therefore be interpreted with that qualification.

47. Mr. MENESES MALLARES (Ecuador) congratulated Miss Monroe on the clarity with which she had presented and explained her draft resolution on the definition and classification of minorities. He would also like to make several comments on the question. First of all, what was a minority? It was a group of individuals who, because they possessed certain special characteristics, were distinct from the rest of the population and were treated differently, with the result that they came to look upon themselves as a separate community. Thus, in principle and in fact, minorities were barred from full and complete participation in the activities of the society in which they lived. Nor did they enjoy the elementary rights which that society should offer them in the political, social and economic fields. Discrimination was practised against all their members without exception, irrespective of ability or the special talent. The size of a minority, as claimed by orthodox theory, incontestably influenced the position of that minority but adherence to that numerical concept might lead to false conclusions, since numerical numbers were not the only factor to be

taken into account. For example, the negroes in the southern part of the United States and the Indians in certain areas of the Americas constituted a majority of the population, yet their status was that of a minority. Furthermore, contrary to orthodox theory, groups having minority status were not necessarily made up of foreign elements: for example, in the case of colonies, it was the dominant group which was composed of foreign elements. It was very important to approach the problem from the psychological point of view and to examine the attitude of a minority towards the environment in which it lived; its behaviour and degree of isolation must be studied. If a community considered itself subject to discrimination, oppression, or scorn, whether or not that was in fact the situation, it was very likely that a persecution complex would develop. Moreover, the condition of different ethnic or cultural groups seemed to vary from one country to another, and even from one region to another, so that it might be said that it was not so much the particular characteristics of a group which made it a minority as the relations which existed between that group and the dominant group, as well as the fact that it did not fully participate in the activities of the society in which it lived.

48. It would be useful and advantageous to approach the question by taking the following different aspects into consideration: (1) the size of a given minority in a given society; (2) the extent to which the position of that minority caused friction between its members and the dominant group or the extent to which that minority was barred from full participation in the life of the society; (3) the kind of social arrangements which governed the relations between that minority and the dominant group; (4) the efforts made by the minority and also by the dominant group to seek a new and more satisfactory equilibrium.

49. When a society contained only one minority, the attitude of the dominant group was very often determined by the characteristics of the minority in question and as a result the society, so to speak, split into two groups; for example, that was the case of the Flemings and the Walloons in Belgium. When the groups were extremely different in race as well as in culture, it was

very easy to distinguish between them by their appearance and behaviour, and separation came about automatically; on the other hand, if the minority differed from the dominant group only in the field of religion or education, the efforts of the dominant group to assert itself would be all the more strenuous.

50. It was therefore quite obvious that the concept of minority could not be strictly or narrowly defined nor based on a static consideration of the various components of a society.

51. In conclusion he said he would speak subsequently on the draft resolution submitted by Miss Monroe.

52. Mr. SHAFAG (Iran) wondered whether it should be inferred from the remarks of Mr. Meneses Pallares that subordination was the only characteristic of a minority. In that case, how should the present-day Germans be described? The notion of minority still remained vague.

53. Mr. MENESES PALLARES (Ecuador) replied that subordination was only one characteristic. A group of individuals which was distinguished by special characteristics and which was subjected to unfair treatment and collective discrimination naturally came to look upon itself as being in a state of subordination.

54. Mr. SHAFAG (Iran) wondered whether political prisoners constituted a minority.

55. Miss MONROE (United Kingdom) explained that political opinions were not inherited characteristics and would not be covered by the protection to be given to minorities. Emphasis must be placed on the hereditary nature of the characteristics to be preserved.

56. Miss SENDER (American Federation of Labor) supported Mr. Shafag's remarks concerning political prisoners. Political opinions could be an important factor in discrimination. Political minorities might undoubtedly

change the political views which distinguished them, but that was also the case with regard to linguistic minorities, for example. For that reason Miss Sender considered that the fact that the characteristics distinguishing a group and making it a minority were subject to change could not justify failure to protect such a group. Even if the Sub-Commission considered that it was not competent to deal with political minorities, it should show some interest in them.

57. The CHAIRMAN recognized the cogency of Miss Sender's observations, but pointed out that article 2 of the Universal Declaration of Human Rights dealt with discrimination and that the Sub-Commission was not authorized under its terms of reference to study measures for the protection of political minorities.

58. Miss MONROE (United Kingdom) explained that she had not stated that there was no intention to protect political minorities; she pointed out, however, that the United Nations Charter and the Draft International Covenant on Human Rights contained clauses regarding the struggle against discriminatory measures.

59. Mr. BLACK (United States of America) associated himself with the other members in congratulating Miss Monroe on her statement and on the carefully prepared draft resolution which she had submitted to the Sub-Commission. He felt that the document would form an excellent basis for discussion. Reverting to a question discussed at the beginning of the meeting, he agreed with the view that members of the Sub-Commission did not in fact represent States, but sat as experts chosen for their personal competence.

60. With regard to the question of minorities, he recalled that the United States was a country where individuals of various ethnic, linguistic and religious groups intermingled, so that it would be affected by any definition of "minorities". In that connexion, he thought that sub-paragraph (b) of the second paragraph of Miss Monroe's draft resolution was particularly important. The situation referred to in that sub-paragraph applied to many inhabitants of his country. Sub-paragraph (a) of the fourth paragraph of the draft resolution was also very important to the United States.

/61. In reply

61. In reply to Mr. Shafaq's remarks, Mr. Black pointed out that there was some difficulty concerning the person or organization which should grant protection to minorities. The operative part of Miss Monroe's draft resolution referred to the protection to be afforded by the United Nations; the latter could not, in fact, afford protection, but only recommend it.

62. Mr. SHAFAG (Iran) specified that the question was not only by whom protection should be provided, but also who would have the right to claim such protection.

63. Mr. NISOT (Belgium) wondered what action could be taken to preserve the racial characteristics of a group. To prohibit marriage between persons of different racial characteristics would be a discriminatory measure. Mr. Nisot therefore thought that the words "and wish to preserve" might be deleted in sub-paragraph (a) of the operative paragraph of the draft resolution.

64. Mr. LAWSON (Secretariat) recalled that during the UNESCO Conference on Race Questions some doubt had been raised concerning the truly hereditary nature of racial characteristics, and it had been thought that it might perhaps be preferable to refer to "ethnic groups" rather than "racial groups".

65. Miss MONROE (United Kingdom) agreed that that expression was preferable, and wished to know whether it met with Mr. Nisot's approval.

66. Mr. NISOT (Belgium) stated that in his view the concept of race was essential.

67. Mr. SHAFAG (Iran) pointed out that in the event of an ethnic group deciding to prohibit its members from marrying persons belonging to other groups, the question would arise what recourse would be available to the individual members of the group.

The meeting rose at 12.35 p.m.